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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,710	03/12/2002	Martin Kocher	2014	2567
7590 03/28/2005				
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743		EXAMINER ASHLEY, BOYER DOLINGER		
		ART UNIT		PAPER NUMBER
		3724		

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/070,710	Applicant(s) KOCHER ET AL.	
	Examiner Boyer D. Ashley	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/26/04, 1/22/04, 10/31/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendments filed 4/26/04, 1/22/04, and 10/31/03, wherein claims 1-4, 9, and 11-15 remain pending in the instant application. It should be noted that applicant's new claims 11-15, which allegedly correspond to the allowable subject matter of the claims 5-8 and 10 of the previous office action written in independent form do not include all of the limitations of the intervening claims as set forth in paragraph 7 of paper number 4 of the previous office action. However, the new independent claims include the current amendment to base claim regarding the thickness of the saw blade teeth at the top cutting edge.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4, 9, and 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 11, 12, 13, 14, and 15 on line 2, there is no positive antecedent basis for "the lower edge".

In claim 4, there is no positive antecedent basis for "the reduced tooth width".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruno, U.S. Patent 4,157,673.

Bruno discloses the same invention as claimed including, e.g.: a blade back (10) and a tothing (12) extending along one edge of the blade back and including several teeth in succession (see Figures 2 and 4), wherein successive portions of the tothing having a equal number of teeth (one), the saw teeth have the same tooth width as measured at a top-cutting edge in a direction of a thickness of the saw blade (see Figures 2 and 4 or 14 and 16), wherein the same tooth width is different from the saw teeth in the preceding or succeeding portion of the tothing. The teeth 14 and 16 have different widths measured along a top cutting edge, see column 3, lines 63-68.

As to claim 2, Bruno discloses a first tooth width (14 as shown in Figure 4 as 14a) of the saw teeth in one set of portions of the tothing is equivalent to a thickness of the blade back (as shown in Figures 2 and 4); and a second tooth width of the saw teeth in the other portions of the tothing differing from the first tooth width is achieved by a material removal (see column 3, lines 63-65).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruno in view of Hayden, Sr., U.S. Patent 5,331,876, or Lundberg, U.S. Patent 2,994,350.

Bruno discloses the invention substantially as claimed except for the teeth of the second width is formed by removing material from both sides instead of one or the other sides in alternating fashion.

Hayden, Sr. discloses that it is old and well known in the art to use cutting teeth of differing thickness at the top cutting edge, wherein the teeth of one thickness alternate offset sides relative to blade back for the purpose of creating a more balanced cutting tool with enhanced cutting. Lundberg discloses that it is old and well known in the art to use cutting teeth with the same thickness that alternate the cutting tip from the left and right for the purpose of creating a more balanced cutting tool with enhanced cutting. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the teeth of the second width of Bruno formed in an alternating pattern as taught by Lundberg and Hayden, Sr. in order to create an enhanced cutting blade of balance and cut.

As to claim 4, the modified device of Bruno discloses saw teeth with reduced width that are transposed toward a side of the blade back remote from the material removal. The modified device of Bruno discloses removing material from a single side of the tooth to create a reduced tooth width with alternating offset sides and therefore met the language of claim 4.

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8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruno in view of Hayden, Sr., U.S. Patent 5,331,876, or Lundberg, U.S. Patent 2,994,350, as applied to claim 3 above and further in view of Turner, U.S. Patent 3,292,674.

The modified device of Bruno discloses the invention substantially as claimed except for successive portions of the tothing have in alternation one tooth of large tooth width and two teeth of reduced tooth width. However, Turner discloses that it is old and well known in the art to use saw blades with successive portions of tothing with alternating offsets, wherein each group contains multiple teeth with similar offsets for the purpose of creating an enhance cut. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to make the teeth of the modified device of Bruno have multiple similar teeth in one group as taught by Turner in order to provide increased cutting efficiency.

Allowable Subject Matter

9. Claims 11-15 appear to be allowable over the prior art of record.

Response to Arguments

10. Applicant's arguments with respect to claims 1-4, 9, and 11-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art references cited but not relied upon were cited to shown similar devices in the art.

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12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

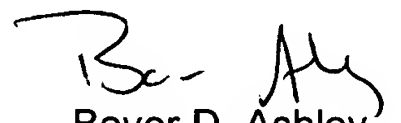
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
March 23, 2005